

# GST NEWSLETTER



## GST Council Secretariat, New Delhi

Issue-69, December, 2024



## Goods and Services Tax Council







## MESSAGE

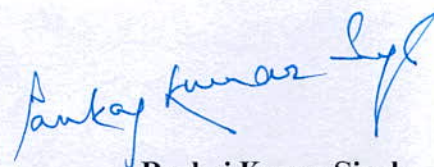
The 55th GST Council meeting was held in Jaisalmer, Rajasthan on 21st December, 2024. It focussed on key decisions related to tax rate revisions, trade facilitation, and compliance streamlining under GST. Among the major outcomes, the Council reduced the GST rate on Fortified Rice Kernel (FRK) to 5%, while increasing the rate on the sale of all old and used vehicles, including electric vehicles, from 12% to 18%. However, the rate applies only to the margin, i.e., the difference between the purchase and selling price (considering depreciation, if applicable).

Exemptions were another highlight of the meeting. Gene therapy has been fully exempted from GST, along with contributions made by general insurance companies from third-party motor vehicle premiums to the Motor Vehicle Accident Fund. Additionally, penal charges levied by Banks and NBFCs on borrowers for non-compliance with loan terms will not attract GST. The Council extended the concessional 5% GST rate on food inputs supplied for free distribution to economically weaker sections under Government Programs, further supporting welfare initiatives. For merchant exporters, the rate of Compensation Cess was reduced to 0.1%, bringing it in line with GST rates on similar supplies.

The Council clarified the taxation of vouchers, stating that vouchers distributed on a principal-to-principal basis would not be classified as a supply of goods or services. However, where the vouchers are distributed using agents/distributors, the commission or fees charged by the agent will be taxable. To streamline compliance, the Council proposed measures such as introducing a Track and Trace Mechanism for specified evasion prone commodities and strengthening the functionality of invoice management systems (IMS). The Council also recommended to amend section 17(5)(d) of CGST Act, 2017, to replace the phrase "plant or machinery" with "plant and machinery", retrospectively, with effect from 01.07.2017, so that the said phrase may be interpreted as per the Explanation at the end of section 17 of CGST Act, 2017.

These decisions underscore the Council's efforts to create a balanced, transparent, and taxpayer-friendly GST framework, fostering a conducive environment for trade and ensuring rationalized taxation for all stakeholders.

*Warm Regards*

  
**Pankaj Kumar Singh,**  
Additional Secretary



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## Recommendations of the 55th Meeting of the GST Council

The 55th GST Council met under the Chairpersonship of Hon'ble Union Minister for Finance & Corporate Affairs Smt. Nirmala Sitharaman in Jaisalmer, Rajasthan on 21st December, 2024.



The meeting was also attended by Hon'ble Union Minister of State for Finance Shri Pankaj Chaudhary, Hon'ble Chief Ministers of Goa, Haryana, Jammu and Kashmir, Meghalaya and Odisha; Hon'ble Deputy Chief Ministers of Arunachal Pradesh, Bihar, Madhya Pradesh, and Telangana; besides Hon'ble Finance Ministers of States & UTs (with legislature) and senior officers of the Ministry of Finance & States/ UTs.



The GST Council inter-alia made the following recommendations relating to changes in GST tax rates, provide relief to individuals, measures for facilitation of trade and measures for streamlining compliances in GST.

### A. Changes in GST rates of goods

#### GOODS

1. To reduce the GST rate on Fortified Rice Kernel (FRK), classifiable under 1904, to 5%.
2. To exempt GST on gene therapy.
3. To extend IGST exemption to systems, sub-systems, equipment, parts, sub-parts, tools, test equipment, software meant assembly/manufacture of LRSAM system under Notification 19/2019-Customs.



4. To reduce the rate of Compensation Cess to 0.1% on supplies to merchant exporters at par with GST rate on such supplies.
5. To exempt from IGST imports of all equipment and consumable samples by Inspection Team of the International Atomic Energy Agency (IAEA) subject to specified conditions.
6. To extend the concessional 5% GST rate on food inputs of food preparations under HSN 19 or 21 that are supplied for food preparations intended for free distribution to economically weaker sections under a government program subject to the existing conditions.

## **SERVICES**

1. To bring supply of the sponsorship services provided by the body corporates under Forward Charge Mechanism.
2. To exempt GST on the contributions made by general insurance companies from the third-party motor vehicle premiums collected by them to the Motor Vehicle Accident Fund, constituted under section 164B of the Motor Vehicles Act, 1988. This fund is constituted for providing compensation/ cashless treatment to the victims of road accidents including hit and run cases.
3. To omit the definition of declared tariff and suitably amend the definition of specified premises (from the services rate and exemption notifications) to link it with actual value of supply of any unit of accommodation provided by the hotel and to make the rate of GST applicable on restaurant services in such hotels, for a given financial year, dependent upon the 'value of supply' of units of accommodation made in the preceding financial year, i.e. 18% with ITC if the 'value of supply' exceeded Rs. 7,500 for any unit of accommodation in the preceding financial year, and 5% without ITC otherwise. Further, to give an option to pay tax on restaurant service in hotels at the rate of 18% with ITC, if the hotel so chooses, by giving a declaration to that effect on or before the beginning of the financial year or on obtaining registration. The above changes to be made effective from 01.04.2025 to avoid any transition difficulties.
4. To exclude taxpayers registered under composition levy scheme from the entry at Sr. No. 5AB introduced vide Notification No. 09/2024-CTR dated 08.10.2024 vide which renting of any commercial/ immovable property (other than residential dwelling) by unregistered person to registered person was brought under reverse charge mechanism. Further, to regularize the period from the date when the notification No. 09/2024-CTR dated 08.10.2024, became effective i.e. from 10.10.2024 till the date of issuance of the proposed notification on "as is where is" basis.

## **Other changes relating to goods and services**

1. To increase the GST rate from 12% to 18 % on sale of all old and used vehicles, including EVs other than those specified at 18% - Sale of old and used petrol vehicles of engine capacity of 1200 cc or more & of length of 4000 mm or more; diesel vehicles of engine capacity of 1500 cc or more & of length of 4000 mm and SUVs. [Note: GST is applicable only on the Value that represents Margin of the Supplier, that is, the difference between the Purchase price and Selling price (depreciated value if depreciation is claimed) and not on the value of the vehicle. Also, it is not applicable in case of unregistered persons.

2. To clarify that Autoclaved Aerated Concrete (ACC) blocks containing more than 50% fly ash content will fall under HS 6815 and attract 12% GST.
3. To clarify that pepper whether fresh green or dried pepper and raisins when supplied by an agriculturist is not liable to GST.
4. To amend the definition of 'pre-packaged and labelled' to cover all commodities that are intended for retail sale and containing not more than 25 kg or 25 litre, which are 'pre-packed' as defined under the Legal Metrology Act, or a label affixed thereto is required to bear the declarations under the provisions of the Act and rules.
5. To clarify that ready to eat popcorn which is mixed with salt and spices are classifiable under HS 2106 90 99 and attracts 5% GST if supplied as other than pre-packaged and labelled and 12% GST if supplied as pre-packaged and labelled. However, when popcorn is mixed with sugar thereby changing its character to sugar confectionary (eg caramel popcorn), it would be classifiable under HS 1704 90 90 and attract 18% GST. It has been decided to regularise the issues for the past on "as is where is" basis.(Note: There is no new imposition of any tax in this regard and is merely a clarification as certain field units were demanding different tax rates on the same. Therefore, it is a clarification being recommended by the GST Council to settle the disputes arising out of interpretation.)
6. To clarify that the Explanation in Sl. No. 52B in notification No. 1/2017- Compensation Cess (Rate) dated 28.6.2017 regarding ground clearance is applicable with effect from 26.07.2023.
7. To clarify that RBI regulated Payment Aggregators are eligible for the exemption under entry at Sl. No. 34 of notification No. 12/2017-CT(R) dated 28.06.2017 since they fall within the ambit of 'acquiring bank' as defined in the said entry. To also clarify that this exemption does not cover payment gateway (PG) and other fintech services which do not involve settlement of funds.
8. To clarify that no GST is payable on the 'penal charges' levied and collected by banks and NBFCs from borrowers for non-compliance with loan terms.

## **B. MEASURES FOR FACILITATION OF TRADE**

### **1. Amendment in Schedule III of CGST Act, 2017**

- To insert clause (aa) in paragraph 8 of Schedule III of the CGST Act, 2017 w.e.f. 01.07.2017, to explicitly provide that supply of goods warehoused in a Special Economic Zone (SEZ) or Free Trade Warehousing Zone (FTWZ) to any person before clearance of such goods for exports or to the Domestic Tariff Area, shall be treated neither as supply of goods nor as supply of services.
- This brings transactions relating to supply of goods warehoused in SEZ/FTWZ at par with the existing provision in GST for transactions in Customs bonded warehouse.

### **2. Issues pertaining to taxability of Vouchers**

In a significant move to address long-standing concerns regarding the taxability of vouchers under GST, the GST Council made the following recommendations:



i. To omit sections 12(4) and 13(4) from CGST Act, 2017 and rule 32(6) from CGST Rules, 2017 to resolve ambiguities in the treatment of vouchers.

ii. To issue clarification on the following issues:

a. Transactions in vouchers shall be treated neither as a supply of goods nor as a supply of services.

b. Distribution of vouchers on principal-to-principal basis shall not be subject to GST. However, where vouchers are distributed on principal-to-agent basis, the commission/fee or any other amount charged by the agent for such distribution is taxable under GST.

c. Additional services such as advertisement, co-branding, marketing and promotion, customization and technology support, customer support etc. related to vouchers would be leviable to GST on the amount paid for these services.

d. Unredeemed vouchers (breakage) would not be considered as supply under GST and no GST is payable on income booked in the accounts in respect of breakage.

### **3. Issuance of clarifications through the circulars to remove ambiguity and legal disputes in certain issues.**

To issue circulars to provide clarity in the following issues due to varied interpretations by the field formations:

i. Clarification regarding requirement of reversal of Input Tax Credit by electronic commerce operators in respect of supplies made under section 9(5) of CGST Act, 2017: The GST Council recommended that no proportional reversal of ITC under section 17 (1) or section 17 (2) of CGST Act, 2017 is required to be made by the ECO in respect of supplies for which they are required to pay tax under section 9(5) of CGST Act, 2017.

ii. Clarification on availability of Input Tax Credit as per section 16(2)(b) of CGST Act, 2017 in respect of goods which have been delivered by the supplier at his (supplier's) place of business : The GST Council recommended to clarify that in an Ex-Works contract, where goods are delivered by the supplier to the recipient or a transporter at the supplier's place of business, and the property in goods transfers to the recipient at that point, the goods are considered to be "received" by the recipient under section 16(2)(b) of CGST Act, 2017 and the recipient may claim Input Tax Credit (ITC) on such goods, subject to the conditions outlined in Sections 16 and 17 of the CGST Act, 2017.

### **iii. Clarification regarding applicability of late fee for delay in furnishing of FORM GSTR-9C and providing waiver of late fee on delayed furnishing of FORM GSTR-9C for the period from 2017-18 to 2022-23:**

a. The GST Council recommended to clarify through a circular that the late fee under Section 47(2) of the CGST Act, 2017 is leviable for the delay in filing the complete annual return under Section 44 of the CGST Act, 2017, which includes both FORM GSTR-9 (Annual Return) and FORM GSTR-9C (Reconciliation Statement), where applicable.

b. For the annual returns pertaining to the period 2017-18 to 2022-23, the GST Council also recommended to issue notification under section 128 of CGST Act, 2017 for waiver of the amount of late fee for delayed filing of FORM GSTR-9C, which is in excess of the amount of late fee payable till the date of filing of FORM GSTR-9 for the said financial years, provided the said FORM GSTR-9C is filed on or before 31st March, 2025.

## **C. MEASURES FOR STREAMLINING COMPLIANCES IN GST**

### **1. Insertion of new provision for Track and Trace Mechanism**

- To insert an enabling provision in CGST Act, 2017 through Section 148A so as to empower the Government to enforce the Track and Trace Mechanism for specified evasion prone commodities.
- The system shall be based on a Unique Identification Marking which shall be affixed on the said goods or the packages thereof. This will provide a legal framework for developing such a system and will help in implementation of mechanism for tracing specified commodities throughout the supply chain.

### **2. Clarification regarding recording of correct details of name of the State of the un-registered recipient as well as correct declaration of place of supply in respect of supply of 'Online Services'**

- To clarify that in respect of supply of 'Online Services' such as supply of online money gaming, OIDAR services, etc. to unregistered recipients, the supplier is required to mandatorily record the name of the State of the unregistered recipient on the tax invoice and such name of State of recipient shall be deemed to be the address on record of the recipient for the purpose of section 12(2)(b) of IGST Act, 2017 read with proviso to rule 46(f) of CGST Rules, 2017

## **D. OTHER MEASURES PERTAINING TO LAW & PROCEDURE**

### **1. Amendment in section 17(5)(d) of CGST Act, 2017**

- To align the provisions of section 17(5)(d) of CGST Act, 2017 with the intent of the said section, the Council has recommended amending section 17(5)(d) of CGST Act, 2017, to replace the phrase "plant or machinery" with "plant and machinery", retrospectively, with effect from 01.07.2017, so that the said phrase may be interpreted as per the Explanation at the end of section 17 of CGST Act, 2017.

### **2. Amendment in section 107 and section 112 of CGST Act, 2017 to provide for payment of pre-deposit for filing an appeal in respect of an order passed which involves only penalty amount.**

- To amend the proviso to section 107(6) of CGST Act, 2017 providing for payment of pre-deposit at 10% instead of 25 %for filing appeals before Appellate Authority in cases involving only demand of penalty without involving the demand of tax.
- To insert a new proviso to section 112(8) of CGST Act, 2017 providing for payment of pre-deposit at 10%for filing appeals before Appellate Tribunal in cases involving only demand of penalty without involving the demand of tax.



### **3. Amendment in section 2(69) of CGST Act, 2017 to insert an Explanation regarding definitions of Local Fund and Municipal Fund**

To amend clause (c) of section 2(69) of CGST Act, 2017 and to insert an Explanation under the same to provide for definitions of the terms 'Local Fund' and 'Municipal Fund' used in the said clause.

### **4. Amendment in provisions pertaining to Input Services Distributor (ISD) mechanism under CGST Act, 2017 and CGST Rules, 2017**

- To amend Section 2(61) and Section 20(1) of the CGST Act, 2017 to explicitly include inter-state RCM transactions under the ISD mechanism by including reference to supplies subject to tax under section 5(3) and 5(4) of IGST Act, 2017 in the said provisions.
- Consequentially, to amend section 20(2) of CGST Act, 2017 and rule 39(1A) of the CGST Rules, 2017.
- These, amendments in CGST Act, 2017 are to be made effective from 01.04.2025.

### **5. Provision for grant of Temporary Identification Number by Tax Officers to persons, not liable to be registered otherwise**

- To insert new rule 16A in CGST Rules, 2017 to provide for a separate provision for generation of temporary identification number for persons, who are not liable to be registered under CGST Act, 2017 but are required to make any payment as per rule 87(4) of CGST Rules, 2017.
- To amend Rule 87 (4) of CGST Rules, 2017 incorporating a reference to the new Rule and consequential modification of FORM GST REG-12.

### **6. Amendment in the field 'category of registered person' for taxpayers who opted for composition levy through FORM CMP-02**

- To amend sub-rule (1) of rule 19 of CGST Rules, 2017 to include reference to FORM GST CMP-02 in the said rule to allow the taxpayers to modify their "category of registered person" in Table 5 of FORM GST CMP-02 through FORM GST REG-14.

### **7. Amendment in CGST Act, 2017 and CGST Rules, 2017 in respect of functionality of Invoice Management System (IMS)**

The GST Council recommended inter-alia-

- To amend section 38 of CGST Act, 2017 and rule 60 of CGST Rules, 2017 to provide a legal framework in respect of generation of FORM GSTR-2B based on the action taken by the taxpayers on the Invoice Management System (IMS).
- To amend section 34(2) of CGST Act, 2017, to specifically provide for requirement of reversal of input tax credit as is attributable to a credit note, by the recipient, to enable the reduction of output tax liability of the supplier.

- To insert a new rule 67B in CGST Rules, 2017, to prescribe the manner in which the output tax liability of the supplier shall be adjusted against the credit note issued by him.
- To amend section 39 (1) of CGST Act, 2017 and rule 61 of CGST Rules, 2017 to provide that FORM GSTR-3B of a tax period shall be allowed to be filed only after FORM GSTR-2B of the said tax period is made available on the portal.

## **E. OTHER MEASURES:**

- The GST Council approved the recommendation of the committee of officers suggesting measures for the various issues raised by the States in respect of issues pertaining to IGST settlement and asked the committee to conclude the desired changes by March, 2025.
- The GST Council took note of the procedural rules proposed for the internal functioning of the GSTAT, which would be notified after examination by the Law Committee. This would help in operationalization of the GSTAT.
- The Council also decided to extend the time frame for the Group of Ministers on the restructuring of the GST Compensation till 30th June, 2025.
- On the request of State of Andhra Pradesh the Council recommended that a Group of Ministers be constituted to examine the legal and structural issues, and recommend a uniform policy on imposition of levy in case of a natural disaster/calamity in the State.

The issue of whether charges collected by municipalities for granting FSI including additional FSI, chargeable to GST on reverse charge basis was brought up in the Council. The matter was deferred for further examination on the behest of the Central Government on the ground that this amount relates to Municipalities or local authority.

## **NOTIFICATIONS**

### **➡ Notification No. 30/2024 - Central Tax dated 10.12.2024**

The Central Government vide the said Notification has extended the due date for filing of return in FORM GSTR-3B for the month of October, 2024 till 11.12.2024 for the registered persons whose principal place of business is in the district of Murshidabad in the state of West Bengal and are required to furnish return under section 39(1) read with rule 61(1)(i) of the Central Goods and Services Tax Rules, 2017.

### **➡ Notification No. 31/2024 - Central Tax dated 13.12.2024**

The Central Government vide the said Notification has appointed Additional Commissioner or Joint Commissioner, CGST and Central Excise, Chandigarh Commissionerate [holding the charge of adjudication of DGGI cases] for passing an order or decision in respect of specific Show Cause Notices (SCNs) issued by the Directorate General of GST Intelligence (DGGI) under sections 73, 74, 122, 125, and 127 of the CGST Act as mentioned in the said Notification.



➡ **Circular No. 239/33/2024-GST dated 04.12.2024 regarding amendment to Circular No. 31/05/2018-GST, dated 9th February, 2018 on 'Proper officer under sections 73 and 74 of the CGST Act, 2017 and under the IGST Act, 2017'**

The Central Government vide the said Circular has amended the Circular No. 31/05/2018-GST, dated 09.02. 2018 on 'Proper officer under sections 73 and 74 of the CGST Act, 2017 and under the IGST Act, 2017'. Notification No. 02/2022 and Notification No. 27/2024 empowers Additional and Joint Commissioners of specified Central Tax Commissionerate with All-India jurisdiction to adjudicate SCNs issued by DGCI officers. For SCNs involving multiple noticees (either having the same or different PANs) or multiple SCNs issued on the same issue to multiple notices having the same PAN, jurisdiction is determined based on the location of the principal place of business of the noticee with the highest tax demand. A table is provided which lists the zones and corresponding commissionerates responsible for adjudication.

It further states that in cases where a SCN has been issued to multiple noticees, either having the same or different PANs, and the said show cause notice is required to be adjudicated by a common adjudicating authority as per the highest amount of demand of tax in accordance with the criteria mentioned earlier, then if any show cause notice(s) is issued subsequently on the same issue to some other noticee(s) having PAN(s) different from the PANs of the noticees included in the earlier show cause notice, the said later show cause notices are to be adjudicated: (i) by the jurisdictional adjudicating authority of the noticee if there is only one noticee (GSTIN) involved in the said later show cause notice; or (ii) by the common adjudicating authority in accordance with the criteria mentioned earlier as applicable independently based on the highest amount of tax demand in the said later show cause notice if there are multiple noticees (GSTINs) involved in the said later show cause notice having the principal place of business under the jurisdiction of multiple Central Tax Commissionerates.

For show cause notices issued by DGCI officers before Notification No. 27/2024-Central Tax dated 25.11.2024, where no adjudication order has been passed by 30.11.2024, these notices may be reassigned to Additional/Joint Commissioners of Central Tax with All India jurisdiction through corrigenda, following the criteria in para 7.1 and 7.1.1.

➡ **Circular No. 240/34/2024-GST dated 31.12.2024 regarding clarification in respect of ITC availed by ECOs where services specified under Section 9(5) of CGST Act, 2017 are supplied through their platform**

The Central Government vide the said Circular clarified whether Electronic Commerce Operator (ECO), required to pay tax under section 9(5) of CGST Act, is liable to reverse proportionate input tax credit(ITC) on his inputs and input services to the extent of supplies made under section 9(5) of the CGST Act. ECOs are required to pay tax on specified services notified under Section 9(5) as if they are the suppliers of the services and also provide their own services by providing their electronic platform for which they charge platform fee /commission etc. from the platform users. For such supplies where they provide their own services, ECOs avail ITC on inputs and input services.

It was clarified in Question No. 6 of Circular No. 167/23/2021-GST dated 17.12.2021 that ECOs shall not be required to reverse ITC on account of restaurant services on which tax is paid under Section 9(5) of the CGST Act. It also clarified that ITC cannot be utilized to pay tax liability under Section 9(5), and the entire tax liability under Section 9(5) must be paid in cash. It is clarified that the principle also applies to the supplies made in respect of other services specified under section 9(5) of CGST Act.

Accordingly, it is clarified that ECOs, who is liable to pay tax under section 9(5) of the CGST Act in respect of specified services, are not required to reverse ITC on inputs and input services proportionately under sections 17(1) or 17(2) of the CGST Act to the extent of supplies made under section 9(5) of the CGST Act. It is further clarified that ECO will be required to pay the full tax liability on account of supplies under section 9(5) of the CGST Act only through electronic cash ledger. The credit availed by him in relation to the inputs and input services used to facilitate such supplies cannot be used for discharge of such tax liability under section 9(5) of the CGST Act. However, such credit can be utilized by him for discharge of tax liability in respect of supply of services on his own account.

➡ **Circular No. 241/35/2024-GST dated 31.12.2024 regarding clarification on availability of ITC as per section 16 (2)(b) of the CGST Act, 2017 in respect of goods which have been delivered by the supplier at his place of business under Ex-Works Contract**

The Central Government vide the said Circular clarified the applicability of clause (b) of sub-section (2) of Section 16 of the CGST Act regarding the "receipt" of goods by registered persons under Ex-Works (EXW) contracts in the automobile sector. Under such contracts between Original Equipment Manufacturers (OEMs) and dealers, the property in goods is deemed to pass to the dealer when the goods are handed over to the transporter at the instance of the dealer, and the delivery on the part of the OEM is complete at his factory gate. The transport and insurance, if arranged by the OEM, are done on behalf of the dealer, and any claims for loss are borne by the dealer.

The dealer avails ITC on the date the vehicles are billed to him and handed over to the transporter by the OEM at his factory gate. However, some field formations are taking a view that ITC can be availed by the dealer only after the vehicles are physically received by him at his business premises and show cause notices have been issued to a number of dealers, demanding tax for wrongful availment of ITC for contravention of provisions of clause (b) of sub-section (2) of section 16 of the CGST Act.

It is stated that the section 16(2)(b) and its Explanation provides that where goods are delivered by the supplier to any other person, whether acting as an agent or not, upon the direction of the registered person, and where such delivery occurs either through transfer of documents of title to goods or otherwise, the registered person is deemed to have "received" such goods for the purpose of the section 16(2)(b) of CGST Act. Accordingly, in cases where goods are delivered by the supplier to the registered person, either directly or to any other person on the directions of the said registered person, the registered person shall be considered to have "received" the said goods for the purpose of section 16(2)(b) of CGST Act.



The said Circular clarifies that in such scenarios, the property in the said goods can be considered to have been passed on to the dealer by the OEM upon handing over of the said goods to the transporter at his factory gate, meaning thereby that the goods can be considered to have been delivered to the registered person (the dealer), through the transporter, by the supplier (the OEM) at his factory gate and the supply of the said goods can be considered to have fructified at the factory gate of the OEM, even though the goods may be physically received by the registered person (the dealer) after the transit period. Accordingly, it is clarified that as per Explanation to section 16(2)(b) of CGST Act, the registered person (the dealer) can be considered to have “received” the said goods at the time of such handing over of the goods by the supplier to the transporter, at his factory gate, for their onward transmission to the said registered person (the dealer).

The same principle is applicable in respect of supply of other goods also where the contract between the supplier and recipient is an EXW contract, and as per terms of the contract, the goods are to be delivered by the supplier to the recipient, or to any other person (including a transporter) on behalf of the recipient, at his (supplier's) place of business and the property in the goods stands transferred to the recipient at the time of such handing over. It is also mentioned that as per section 16(1) of the CGST Act, a registered person is entitled to input tax credit only in respect of supply of goods or services or both, which is used or intended to be used in the course or furtherance of business, and it is subject to other conditions under Sections 16 and 17 of the Act. If the goods are diverted for non-business purposes at any stage or lost, stolen, destroyed, written off, or disposed of at any time after “receiving” the goods, the registered person would not be entitled for ITC in respect of such goods as per the provisions of Sections 16(1) and 17(5)(h) of the CGST Act.

#### ➡ **Circular No. 242/36/2024-GST dated 31.12.2024 regarding clarification on place of supply of Online Services supplied by the suppliers of services to unregistered recipients**

The Central Government vide the said Circular clarified that at provisions of proviso to rule 46(f) of CGST Rules shall be applicable in respect of all the online supplies of services (such as subscription of e-newspapers and e-magazines, online subscription of entertainment services (e.g. OTT platforms), online telecom services, digital services through mobile applications etc.) supplied to an unregistered recipient, in addition to the supply of online money gaming and OIDAR services. It mentioned that a conjoint reading of clause Section 12(2)(b) of the IGST Act, Section 31(2) of the CGST Act and proviso to rule 46(f) of CGST Rules leads to a conclusion that in respect of supply of services made to unregistered persons, irrespective of the value of the said supply, the supplier is required to mandatorily record the name of the State of the unregistered recipient on the tax invoice, in cases involving supply of online money gaming or supply of taxable services by or through an electronic commerce operator or supply of online information and database access or retrieval (OIDAR) services. Recording of the name of State of the unregistered recipient on the tax invoice in respect of such supply of services shall be deemed as the address on record of the recipient for the purpose of determination of place of supply of the said services under section 12(2)(b) of IGST Act. Accordingly, in such cases, the place of supply of such services shall be considered as the location of the recipient of the services as per provisions of clause (i) of section 12(2)(b) of IGST Act.

It further clarified that in respect of supply of any such online/ digital services, OIDAR services and online money gaming to unregistered recipients, the suppliers are mandatorily required to

record the name of the State of the recipient on the tax invoice, irrespective of the value of supply of such services, and to declare place of supply of the said services as the location of the recipient (based on the name of State of the recipient) in their details of outward supplies in FORM GSTR-1/1A.

It also mentioned that suppliers must establish mechanisms to collect the recipient's State details for tax invoices when providing online services to unregistered persons. The recorded State is deemed the recipient's address for determining the place of supply under Section 12(2) (b)(i) of the IGST Act. Failure to comply with invoicing requirements, including recording the recipient's State, may result in penalties under Section 122(3)(e) of the CGST Act.

➡ **Circular No. 243/37/2024-GST dated 31.12.2024 regarding clarification on various issues pertaining to GST treatment of vouchers**

The Central Government vide the said Circular clarified that where a voucher is a pre-paid instrument recognized by the RBI and is used as consideration to settle an obligation, it qualifies as "money" under section 2(118) read with section 2(75) of the CGST Act. Since "money" is excluded from the definitions of goods under section 2(52) and services under section 2(102), such transactions in vouchers do not constitute a supply of goods or services. On the other hand, if a voucher is not a pre-paid instrument recognized by the RBI, it creates an obligation on the supplier to accept it as consideration or part consideration. Such vouchers can be considered as "actionable claims" within the meaning of section 2(1) of the CGST Act read with section 3 of the Transfer of Property Act, 1882. As per para 6 of Schedule III of the CGST Act, actionable claims other than specified actionable claims (involving betting, gambling, lottery, etc.) are also treated neither as a supply of goods nor as a supply of services. It appears that even in such a case, transaction in vouchers would be treated neither as a "supply of goods" nor as a "supply of services".

Therefore, it is clarified through the Circular that irrespective of whether voucher is covered as a pre-paid instrument recognized by RBI or not, the voucher is just an instrument which creates an obligation on the supplier to accept it as consideration or part consideration and the transactions in voucher themselves cannot be considered either as a supply of goods or as a supply of services. However, supply of underlying goods and/or services, for which vouchers are used as consideration or part consideration, may be taxable under GST.

It further clarifies that where vouchers are distributed through the distributors/ sub-distributors/ dealers on Principal-to-Principal(P2P) would not constitute either supply of goods or services as the transaction in vouchers is neither supply of goods nor supply of services. Accordingly, such trading of vouchers would not be leviable to GST as per section 9 (1) of CGST Act. In cases where vouchers are distributed using distributors/ sub-distributors/ agents on commission/ fee basis, they do not operate autonomously, do not own the vouchers and only act as agent of the voucher issuer. In such cases, GST would be payable by such distributor/sub-distributor/agent, acting as an agent of the voucher issuer, on the commission/fee or any other amount by whatever name called, for such purpose, as a supply of services to the voucher issuer.

Unredeemed vouchers, also known as breakage, do not attract GST as there is no supply of goods or services when vouchers remain unredeemed upon expiry. According to Section 9(1) of the CGST Act, GST is applicable only on the supply of goods or services. Since no underlying supply

occurs in such cases, the amount retained by the voucher issuer cannot be construed as consideration for any supply and is, therefore, not taxable.

## GST Portal Updates

### ➡ **Advisory for Biometric-Based Aadhaar Authentication and Document Verification for GST Registration Applicants of Arunachal Pradesh**

GSTN vide this advisory has informed the taxpayers about the recent developments concerning the application process of the GST registration. They have listed some key points to be kept in mind during the registration process.

The above-said functionality has been developed by GSTN. It has been rolled out in Arunachal Pradesh w.e.f 28.12.2024. Rule 8 of the CGST Rules, 2017 has been amended to provide that an applicant can be identified on the common portal, based on data analysis and risk parameters for Biometric-based Aadhaar Authentication and taking a photograph of the applicant along with the verification of the original copy of the documents uploaded with the application.

The detailed guidelines are available at the link provided below.

[Portal update on 31.12.2024](#)

### ➡ **Advisory for Waiver Scheme under Section 128A**

GSTN issued an advisory on 08.11.2024. The link for the said advisory is given here:

<https://services.gst.gov.in/services/advisoryandreleased/read/546>

Under the waiver scheme, for a demand notice or statement or order which has been issued under Section 73 for the tax periods between July 2017 & March 2020, the taxpayers are required to file an application either in FORM GST SPL-01 or SPL02 in GST portal accordingly. Presently, Form GST SPL 02 is made available in the GST portal. Form GST SPL 01 will be available soon in the GST portal.

The process of filing SPL-02 electronically is detailed in below document:

[https://tutorial.gst.gov.in/downloads/news/help\\_document\\_on\\_filing\\_of\\_spl\\_02.pdf](https://tutorial.gst.gov.in/downloads/news/help_document_on_filing_of_spl_02.pdf)

[Portal update on 29.12.2024](#)

### ➡ **Advisory for Entry of Receipt Numbers Pertaining to Leased Wagons in the E-Way Bill System**

GSTN has issued advisory to provide specific instructions for entering Receipt Numbers related to Leased Wagons in the E-Way Bill (EWB) system.

Advisories have already been issued regarding the correct format for entering Parcel Way Bill (PWB) numbers and Railway Receipt (RR) numbers for goods transported under the Parcel Management System (PMS) and the Freight Operations Information System (FOIS). This advisory focuses on the requirements specific to Leased Wagons.

The detailed guidelines are available at the link provided below.

[Portal update on 23.12.2024](#)



## ➡ **Advisory for Entry of RR No./eT-RRs in EWB system Post EWB-FOIS Integration**

GSTN has issued the advisory to inform that the FOIS of Indian Railways has now been integrated with the E-Way Bill (EWB) system via Application Programming Interfaces (APIs).

In light of this, it is important that taxpayers follow the correct process for entering RR No. (Railway Receipt Number)/eT-RRs. into the EWB system. Adherence to the guidelines as provided in the advisory will help avoid any potential discrepancies or mismatches.

The detailed guidelines are available at the link provided below.

[Portal update on 18.12.2024](#)

## ➡ **Advisory on Updates to E-Way Bill and E-Invoice Systems**

GSTN announced that NIC has rolled out updated versions of the E-Way Bill and E-Invoice Systems effective from 01.01. 2025. These updates are aimed at enhancing the security of the portals, in line with best practices and government guidelines.

- Starting 01.01.2025, MFA will become mandatory for taxpayers with AATO exceeding Rs 20 Crores, from 01.02.2025 for those with AATO exceeding Rs 5 Crores, and from 01.04.2025 for all other taxpayers and users.
- The generation of E-Way Bills will be restricted to documents dated within 180 days from the date of generation. For instance, documents dated earlier than 05.07. 2024 will not be eligible for E-Way Bill generation starting 01.01.2025.
- The extension of E-Way Bills will be limited to 360 days from their original date of generation. For example, an E-Way Bill generated on 01.01.2025 can only be extended up to 25.12.2025.

[Portal update on 17.12.2024](#)

## ➡ **Advisory for Biometric-Based Aadhaar Authentication and Document Verification for GST Registration Applicants of Chhattisgarh, Goa and Mizoram**

GSTN vide this advisory has informed the taxpayers about the recent developments concerning the application process of the GST registration. They have listed some key points to be kept in mind during the registration process.

The above-said functionality has been developed by GSTN. It has been rolled out in Chhattisgarh, Goa and Mizoram on 15.12.2024. Rule 8 of the CGST Rules, 2017 has been amended to provide that an applicant can be identified on the common portal, based on data analysis and risk parameters for Biometric-based Aadhaar Authentication and taking a photograph of the applicant along with the verification of the original copy of the documents uploaded with the application. The detailed guidelines are available at the link provided below.

[Portal update on 15.12.2024](#)

### ➡ **Advisory on difference in value of Table 8A and 8C of Annual Returns FY 23-24**

As per the Notification No 12/2024 Central Tax dated 10.07.2024 read with Notification No.20/2024-Central Tax dated 08.10.2024, for FY 2023-24 onwards, the total credit available for inwards supplies shall be auto-populated in the table 8A of Form GSTR 9 from GSTR-2B of the FY 23-24. Further, in table 8C of Form GSTR-9 total value of ITC on inwards supplies received during the FY but availed in next FY up to specified period, need to be filled manually.

Various tickets are received, wherein concerns have been raised regarding possible mismatch between the values of table 8A and 8C of Form GSTR-9 for FY 23-24. It is pertinent to mention that for FY 22-23 in table 8A of Form GSTR-9, values were getting auto populated from GSTR-2A however for FY 23-24 same are being auto populated from GSTR-2B. Therefore, to some extent, in Form GSTR-9 of FY 23-24, values in Table 8A will be inflated in respect of FY 22-23 at the same time values will be lower than expected in respect of FY 23-24, hence there will be a mismatch between the two tables i.e. 8A and 8C. Few scenarios in this regard are advised in the advisory. The detailed guidelines are available at the link provided below.

[Portal update on 09.12.2024](#)

### ➡ **Advisory for Biometric-Based Aadhaar Authentication and Document Verification for GST Registration Applicants of Haryana, Manipur, Meghalaya and Tripura**

GSTN vide this advisory has informed the taxpayers about the recent developments concerning the application process of the GST registration. They have listed some key points to be kept in mind during the registration process.

The above-said functionality has been developed by GSTN. It has been rolled out in Haryana, Manipur, Meghalaya and Tripura on 07.12.2024. Rule 8 of the CGST Rules, 2017 has been amended to provide that an applicant can be identified on the common portal, based on data analysis and risk parameters for Biometric-based Aadhaar Authentication and taking a photograph of the applicant along with the verification of the original copy of the documents uploaded with the application. The detailed guidelines are available at the link provided below.

[Portal update on 08.12.2024](#)

### ➡ **Advisory on mandatory Sequential Filing of GSTR-7 Returns as per Notification No. 17/2024**

GSTN informs that changes have been introduced in the return filing process for GSTR-7 with effect from 01.11.2024 onwards.

As per Notification No. 17/2024-Central Tax, dated 27th September 2024, effective from the 01.11.2024, GSTR-7 filing has been made sequential from the October tax period. Hence, GSTR-7 return is to be filed in chronological order, beginning with the return period of October 2024. It is pertinent to mention that for a month in which no deduction have been made, deductors need to file Nil return for the same month.

[Portal update on 04.12.2024](#)

## ➡ Gross and Net GST revenue collections for the month of Nov, 2024

Gross and Net GST revenue collections for the month of November, 2024 and the same is given below.

[https://tutorial.gst.gov.in/downloads/news/approved\\_monthly\\_gst\\_data\\_for\\_publishing\\_nov\\_2024.pdf](https://tutorial.gst.gov.in/downloads/news/approved_monthly_gst_data_for_publishing_nov_2024.pdf)

*[Portal update on 04.12.2024](#)*

### Best Practices across India

## ➡ CGST Jaipur Zone Conducted an Interactive GST Session with industry associations in Jodhpur today



Under the Khula Samvad initiative, Shri Mahendra Ranga, Chief Commissioner, along with senior officers, engaged with trade and industry associations in Jodhpur today. The meeting facilitated a productive exchange of ideas on GST-related issues, emphasizing the commitment to creating a smoother and more conducive business environment.

### Legal Corner

## ➡ Fait Accompli

The term fait accompli translates to "an accomplished fact." It signifies a situation where an action has been completed or a fact has been established, leaving no room for modification or objection. The principle is often invoked in legal, administrative, or international contexts as a strategy to pre-empt opposition or gain an advantage by presenting the matter as final and irreversible.

For instance, in a legal dispute, if construction is completed on contested land before any objections can be raised, the party responsible might argue that the situation is a fait accompli, making reversal impractical. Similarly, in international relations, unilateral actions such as territorial occupation can create de facto situations requiring negotiation or recognition based on the established reality.

However, the principle is not without limits. Actions deemed illegal, achieved through fraud or



coercion, or harmful to public welfare are not protected under this doctrine. Courts and authorities may intervene to restore legality through demolition, restitution, or penalties. Likewise, under international law, unilateral acts that violate treaties or global resolutions may not gain legitimacy, ensuring justice and adherence to legal frameworks.

The *fait accompli* principle underscores the importance of legality and fairness, ensuring that irreversible actions are scrutinized and upheld only when they align with justice and public interest.

### 55th GST Council Meeting Gallery



**In the Picture above (left to right):** Shri Ajay Seth, Revenue Secretary, DoR; Ms. Nirmala Sitharaman, Hon'ble Union Finance Minister, Gol; Shri Mohan Charan Majhi, Hon'ble Chief Minister, Odisha; Shri Pankaj Chaudhary, Hon'ble Minister of State for Finance, Gol



**In the Picture above (left to right):** Shri. Shashank Priya, Member (GST), CBIC; Shri Sanjay Kumar Agarwal, Chairman, CBIC; Shri Ajay Seth, Revenue Secretary, DoR; Ms. Nirmala Sitharaman, Hon'ble Union Finance Minister, Gol; Shri Pankaj Chaudhary, Hon'ble Minister of State for Finance, Gol; Shri Surjit Bhujbal, Member (CM), CBIC; Shri Vivek Aggarwal, Additional Secretary (Revenue), DoR



**In the Picture above (left to right):** Ms. Seema Arora, Pr. Director General, DGGST; Shri Sachin Jain, Joint Secretary, TRU; Ms. Limatula Yaden, Joint Secretary, TRU; Shri Gaurav Singh, Commissioner, GST Policy Wing; Shri Vivek Ranjan, Member (Tax Policy), CBIC



**In the Picture (left to right):** Shri Vivek Aggarwal, Additional Secretary (Revenue), DoR; Shri Pankaj Kumar Singh, Additional Secretary, GSTCS; Ms. B. Sumidaa Devi, Joint Secretary, GSTCS; Shri Balasubramanian Krishnamurthy, Joint Secretary, TPRU; Shri Alok Kumar, EVP, Services, GSTN



**In the Picture above (left to right):** Shri Varun Roojam, Commissioner of State Taxes, Punjab; Shri S. Harpal Singh Cheema, Hon'ble Finance Minister, Punjab; Shri S.A.M Rizvi, Principal Secretary and Commissioner (CT), Telangana; Shri Mallu Batti Vikramarka, Hon'ble Deputy Chief Minister and Minister for Finance, Telangana





**In the Picture above (left to right):** Shri Conrad K Sangma, Hon'ble Chief Minister, Meghalaya; Shri Ramakrishna Chitturi, Commissioner of Taxes, Meghalaya; Shri P.K. Bhat, Commissioner, State Taxes Department, Jammu & Kashmir; Shri Omar Abdullah, Hon'ble Chief Minister, Jammu & Kashmir; Shri Gajendra Singh, Hon'ble Minister for Medical and Health Services, Rajasthan



**In the Picture above (left to right):** Ms. Y.W. Ringu, Commissioner (Finance, Tax & Excise), Arunachal Pradesh; Shri Chowna Mein, Hon'ble Deputy Chief Minister / Finance Minister, Arunachal Pradesh; Dr. Vanlalhlana, Minister for Taxation, School Education, Higher & Technical Education, Information & Public Relations, Mizoram



**In the Picture (left to right):** Shri Suresh Kumar Khanna, Hon'ble Minister Finance & Parliamentary Affairs, Uttar Pradesh; Shri Pranajit Singha Roy, Hon'ble Finance Minister, Tripura; Shri Vivek H.B., Chief Commissioner of State Taxes, Tripura; Shri Brajendra Navnit, Principal Secretary, Commercial Taxes and Registration Department, Tamil Nadu; Shri Thangam Thennarasu, Hon'ble Minister for Finance and Environment and Climate Change, Tamil Nadu





**In the Picture above (left to right):** Shri K N Balagopal, Hon'ble Minister for Finance, Kerala; Shri Krishna Byre Gowda, Hon'ble Minister for Revenue, Karanataka; Shri Vipul Bansal, Commissioner of Commercial Taxes, Karnataka; Shri Ameet Kumar, Commissioner of Commercial Taxes, Jharkhand; Shri Radha Krishna Kishore, Hon'ble Minister for Finance, Jharkhand



**In the Picture (left to right):** Dr Yunus, Commissioner of State Taxes and Excise, Himachal Pradesh; Shri Rajesh Dharamani, Hon'ble Minister of Technical Education, Himachal Pradesh; Dr. T. Natarajan, Principal Secretary, Finance Department, Gujarat; Shri Kanubhai Desai, Hon'ble Minister for Finance, Gujarat; Shri Rajeev Topno, Chief Commissioner of State Taxes, Gujarat



**In the Picture (left to right):** Dr. Pramod P. Sawant, Hon'ble Chief Minister, Goa; Shri S. S. Gill, Commissioner of State Taxes, Goa; Shri Samrat Choudhary, Hon'ble Deputy Chief Minister, Bihar





**In the Picture above (left to right):** Shri Himanshu Bhardwaj, Superintendent; Shri Mohan Lal, Superintendent; Ms. P. R. Reshmi, Under Secretary; Ms. Reshma R Kurup, Under Secretary; Shri Anil Kumar Moria, Dy. Commissioner; Shri Vineet Kumar, Superintendent; Shri Anil Kumar, Deputy Secretary; Shri Pankaj Kumar Singh, Additional Secretary; Ms. B. Sumidaa Devi, Joint Secretary; Ms. Shaifali G. Singh, Director; Ms. Swati Nokhwal, Dy. Commissioner; Shri Sandeep Kumar, Superintendent; Shri Karan Arora, ASO; Shri Anand Kumar, Inspector, GSTCS



**In the Picture above (left to right):** The Chairperson GST Council Hon'ble Finance Minister Ms. Nirmala Sitharaman, Hon'ble Ministers from Member States and UTs and Other Officials of the GST Council

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